

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 1487 OF 2005

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders.

Court's or Judge's orders

Mr. C.J. Sawant, Senior Advocate with Mr.
V.C.Ghosalkar, for the Petitioner
Mr.P.M. Patil, AGP for respondents

CORAM : F.I. REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

DATED : 13TH SEPTEMBER, 2005

P.C.

1. Rule. Heard forthwith. This is a
petition by the Co-operative Bank
Association as also Pune District Nagari
Sahakari Federation Ltd. It is their
contention that the Recovery Officers have
been appointed, who at the time of issuing
recovery certificate were putting the seal
with the Ashoka Mudra. That is sought to
be withdrawn, as a consequences, the entire
work of issuing recovery certificates has
come to a stand-still.

2. Our attention has been invited
to the provisions of the Bombay Public
Authorities Seals Act, 1883. Under Section
3(4) the State Government, may, from time

to time, by notification in the Official Gazette, direct what official seals any other judicial officer or public authority, whose official seal is not prescribed by law and no other authority is legally competent to prescribe use. In the instant case the post of Recovery Officer is statutory post under the provisions of the Maharashtra Co-operative Societies Act. By virtue of Section 156 of the M.C.S. Act the Registrar or any officer subordinate to him and empowered by him in this behalf or an officer of such society as may be notified by the State Government who has been empowered by the Registrar in this behalf can be conferred powers of recovery as set out therein. Rules have been framed under the M.C.S. Act. Rule 107 (14) (v) provides that after confirmation of any sale the recovery officer shall grant certificate of sale bearing his seal and signature of the purchaser and such certificate shall state the property sold and the name of the purchaser. In other words the Recovery Officer appointed has to put his seal and signature on the recovery certificate. Once that be the case and the said officer is not covered by sub-section (1), (2) and (3) of Section 3 of the Bombay Public Authorities Seals Act, 1883, it is for the State Government under Section 3(4)

to direct what official seal such recovery officer may use. In the instant case there is a communication dated 28th July, 1994 whereby the recovery officers have been permitted to use official seal. Once such a notification has been issued the recovery officer can continue to use seal until the State Government modifies or rescinds the order made by separate notification.

. Considering the above, Rule made absolute in terms of prayer clause (a) until such time the State Government issues any other notification in the exercise of the powers conferred upon them by virtue of the provisions of the Bombay Public Authorities Seals Act, 1883. There shall be no order as to costs.

(F.I. REBELLO, J.)

(DR. D.Y.CHANDRACHUD, J)